

Meeting Date: 8/16/2016

Report Type: Consent

Report ID: 2016-00842

Title: (Pass for Publication) Ordinance Amending Sections 3.76.040, 5.88.040, 5.88.060, 5.88.070, and 9.04.055 of the Sacramento City Code Relating to Vending on Sidewalks and Boardwalks in Old Sacramento

Location: District 4

Recommendation: 1) Review an ordinance amending sections 3.76.040, 5.88.040, 5.88.060, 5.88.070, and 9.04.055 of the Sacramento city code relating to vending on sidewalks and boardwalks in Old Sacramento; and 2) pass for publication the ordinance title as required by Sacramento City Charter section 32(c), with the ordinance to be considered on August 23, 2016.

Contact: Bruce Monighan, Urban Design Manager, (916) 808-1241; Joy Patterson, Principal Planner (916) 808-5607, Community Development Department

Presenter: None

Department: Community Development Dept

Division: Current Planning

Dept ID: 21001221

Attachments:

1-Description/Analysis

2-Background

3-Redlined Proposed Old Sac Alcohol Ordinance (8.9.16)

4-Clean Proposed Old Sac Alcohol Ordinance (8.9.16)

City Attorney Review

Approved as to Form

Maila Hansen

8/10/2016 2:16:50 PM

Approvals/Acknowledgements

Department Director or Designee: Candace Noguchi - 8/2/2016 4:22:49 PM

Description/Analysis

Issue: City Code section 5.88.070 currently states that “[n]o alcoholic beverages shall be sold or consumed on the sidewalk or boardwalk” in Old Sacramento. This alcohol prohibition is unique to Old Sacramento as sidewalk dining, including the sale and consumption of alcoholic beverages, is allowed on other city sidewalks, subject to the City’s revocable encroachment permit requirements and any other applicable requirements.

In response to requests from Old Sacramento business owners, staff is recommending that this alcohol prohibition be removed through an amendment of the City Code. The proposed ordinance would allow the sale and consumption of alcoholic beverages within sidewalk cafes on sidewalks and boardwalks in Old Sacramento, subject to the City’s encroachment permit process outlined in Section 3.76.040 and open container requirements outlined in Section 9.04.055. Pursuant to the requirements of Section 3.76.040, the sidewalk cafes would need to have a decorative element separating the sidewalk café seating area from adjacent pedestrian traffic. In addition, the proposed ordinance clarifies the Planning division’s role in approving design elements for Old Sacramento vending, aligns Old Sacramento with the City’s standard permitting processes, and it updates other outdated language regarding sidewalk and boardwalk vending in Old Sacramento.

Policy Considerations: This proposed ordinance brings Old Sacramento into alignment with other parts of the city with respect to sidewalk vending and dining, including the sale and consumption of alcoholic beverages in sidewalk café areas.

The proposed ordinance supports several goals and policies in the City’s 2035 General Plan, including:

- Creating a city of distinctive and memorable places (General Plan Land Use (LU) 2.4).
- Supporting cultural and entertainment centers (LU 5.1.3).
- Promoting the Central Business District as a regional center (LU 5.6.1).
- Providing for cultural and social facilities and services (LU 8.1).

Economic Impacts: None.

Environmental Considerations: This action is not a project subject to the California Environmental Quality Act (CEQA) because it only involves general policy and procedure making and it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines sections 15002(d), 15378(b)(2), 15061(b)(3).)

Sustainability: None.

Commission/Committee Action: On August 9, 2016, the Law and Legislation Committee considered the proposed ordinance amending Sections 3.76.040, 5.88.040, 5.88.060, 5.88.070, and 9.04.055, and passed a motion approving and forwarding to City Council the proposed ordinance.

Rationale for Recommendation: Old Sacramento has a unique prohibition of the sale and consumption of alcoholic beverages on sidewalks and boardwalks that is not consistent with other parts of the city. Given the significance of Old Sacramento as a major tourist attraction, the continued growth of restaurants and cafés in the Old Sacramento Business District, and the expected increase in patrons with the Golden 1 Center, staff recommends that the City Council approve this ordinance to allow Old Sacramento to have the same business opportunities that are available in other areas of the city.

Financial Considerations: None.

Local Business Enterprise (LBE): Not applicable.

BACKGROUND

Staff Outreach and Research

Staff has consulted with the Downtown Sacramento Partnership (DSP) representing Old Sacramento merchants, the Convention and Cultural Services Department which manages the Old Sacramento historic district, Sacramento Police Department, Sacramento Fire Department, District 4 Council office, and the Economic Development Department. Consultation has been via three stakeholder meetings and the circulation of ordinance language for review and comment.

Proposed Amendments to City Code Sections 3.76.040, 5.88.040, 5.88.060, 5.88.070, and 9.04.055

The proposed amendments are based on the research of staff as well as input from the various stakeholders. According to the proposed ordinance, Section 5.88.060 is amended to clarify when vendors with a fixed business location in Old Sacramento can vend goods, wares, or merchandise from the sidewalks or boardwalks in Old Sacramento during special events, and to specify the restrictions on such vending. Section 5.88.070 is amended to allow consumption and sale of alcoholic beverages on the sidewalks and boardwalks in Old Sacramento within sidewalk café areas pursuant to the City's encroachment permit process outlined in Section 3.76.040 and the open container requirements of Section 9.04.055. Various provisions of Sections 3.76.040 and 9.04.055 are also amended to accommodate the new permitting process for sidewalk cafes in Old Sacramento. Finally, various other provisions of Chapter 5.88 are amended in the proposed ordinance to reflect updated conditions in Old Sacramento and the Planning division's role in design approval.

Under the proposed ordinance, sidewalk cafes in Old Sacramento will only be allowed with a revocable encroachment permit obtained pursuant to Section 3.76.040. Of significance is that, per the requirements of Section 3.76.040, sidewalk cafes must be established in conjunction with an adjacent restaurant use. Therefore, bars and lounges are prohibited from selling alcoholic beverages on the sidewalks or boardwalks if they are not operated in conjunction with a restaurant use. Additionally, Section 3.76.040 specifies that applications for sidewalk café encroachment permits must outline the location of tables, chairs, accessory service facilities, perimeter barrier element, and any fixed elements on the sidewalk within a 25-foot radius of the café.

Further, Section 3.76.040 states that sidewalk cafes must be enclosed with a decorative element separating café seating from adjacent pedestrian traffic, and cafes shall not obstruct pedestrian traffic, accessibility to vehicles parked adjacent to the curb, or create public health or safety hazards. Finally, Section 3.76.040 requires that service and consumption of alcoholic beverages in sidewalk cafes comply with City Code Chapter 9.04, and Section 9.04.055 does not prohibit possession of open containers in sidewalk cafes if a license from the California Department of Alcoholic Beverage Control (ABC) is obtained.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTIONS 3.76.040, 5.88.040, 5.88.060, 5.88.070, AND 9.04.055 OF THE SACRAMENTO CITY CODE RELATING TO VENDING ON SIDEWALKS AND BOARDWALKS IN OLD SACRAMENTO

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 3.76.040 of the Sacramento City Code is amended to read as follows:

3.76.040 Sidewalk café revocable encroachment permits.

A. Sidewalk cafés are permitted on a city sidewalk, ~~boardwalk~~, alley, or pedestrian mall located in the public right-of-way, subject to issuance of a sidewalk café revocable encroachment permit under this section and compliance with the application, development, and operational requirements of this section.

B. Applications for a sidewalk café revocable encroachment permit shall be made to the city manager or designee. A completed sidewalk café revocable encroachment permit application must be accompanied by two sets of plans drawn to scale, consisting of site (plot) plan and elevation drawings of proposed outdoor dining facilities. The site plan must show the location of tables, chairs, accessory service facilities, perimeter barrier element, and any fixed elements on the sidewalk, ~~boardwalk, /alley, or /mall~~ within a ~~twenty-five (25)-~~foot radius around the sidewalk café area. Fixed elements include, but are not limited to, light and sign poles, trees ~~and /~~landscape strips, traffic signal poles, parking meters, raised planter curbs, tree-wells, flower pots, and waste containers. Plans must include the dimension of the clear zone, as defined in subsection E of this section, from outer perimeter of the sidewalk café fixture to nearest sidewalk fixtures. Elevation plans must show front and side view of sidewalk dining facilities, including all proposed above-grade improvements such as planter boxes, awnings, tables, and chairs.

C. A sidewalk café may be established only in conjunction with an adjacent restaurant use.

D. Sidewalk cafés shall not obstruct pedestrian traffic, accessibility to vehicles parked adjacent to the curb, or create public health or safety hazards.

E. A minimum four-foot clear zone outside the CBD special planning district and a minimum six-foot clear zone inside the CBD special planning district and inside the Old Sacramento business district are required between the outside edge of any sidewalk café fixture and any fixed element within the sidewalk, boardwalk, alley, or pedestrian mall right-of-way. Fixed elements include, but are not limited to, light and sign poles, trees and landscape strips, traffic signal poles, parking meters, raised planter curbs, tree-wells, flower pots, and waste containers. “Clear zone” means a ~~paved~~ pedestrian area that is maintained free of all obstructions.

F. The sidewalk café revocable encroachment permit holder ~~solely shall be~~ responsible for compliance with all federal and state laws relating to disabled access in the operation of a sidewalk café and in maintaining the clear zone required by subsection E ~~of this section free of obstructions~~.

G. No additional parking shall be required for sidewalk cafés permitted under this section.

H. Sidewalk cafés shall be used only as seating areas. Storage, kitchen, or restroom uses are not allowed. Tables and ~~or~~ chairs must be movable unless otherwise approved by the city manager or designee.

I. Placement of tables and ~~or~~ chairs shall be limited to the public right-of-way frontage adjacent to the associated restaurant use as determined by the city manager or designee. All tables and chairs for sidewalk cafés in the Old Sacramento business district must be approved in advance by the planning director or designee.

J. Service and consumption of alcoholic beverages in a sidewalk café shall comply with ~~c~~Chapter 9.04 ~~of this code~~.

K. A decorative element separating the sidewalk café seating area from adjacent pedestrian traffic must be provided. The design and materials of ~~this~~ element must complement and be compatible to the architectural design of the restaurant building façade or of a design that adds visual interest to the streetscape. Decorative elements within the Old Sacramento business district must be approved in advance by the planning director or designee.

L. Sidewalk cafés may be uncovered, partially covered, or fully covered by means of umbrellas, awnings or canopies. Awning or canopy material covering a sidewalk café shall be temporary or retractable and may extend into the public right-of-way from the face of the building up to the maximum clear zone dimension of six feet. Width and height of awnings and canopies shall meet applicable building code requirements. Awnings, canopies and umbrellas must be made of fire-treated or nonflammable materials.

M. Decorative ~~or~~ accent lighting may be incorporated into the sidewalk café awning or canopy and shall meet all city code requirements.

N. Upon approval by the city manager or designee, the applicant shall obtain all required building ~~and~~ electrical permits prior to construction.

O. The permit issued under this section approving the sidewalk café and designating the allowed number of tables and ~~or~~ chairs shall be displayed in a prominent location easily accessible to the public.

SECTION 2.

Section 5.88.040 of the Sacramento City Code is amended to read as follows:

5.88.040 Prohibited.

Except as otherwise provided in this article, ~~no person shall it is unlawful for any persons to~~ sell or attempt to sell or distribute any goods, wares, or merchandise, food or beverages by means of vending or distributing such goods, wares, merchandise, food or beverages upon any street, boardwalk, or sidewalk in the Old Sacramento business district.

SECTION 3.

Section 5.88.060 of the Sacramento City Code is amended to read as follows:

5.88.060 Vendors of merchandise with fixed business locations permitted to vend from sidewalk or boardwalk during specified special events.

~~Notwithstanding S~~section 5.88.040 ~~of this chapter notwithstanding~~, a vendor who has a fixed business location within the Old Sacramento business district from which the vendor regularly sell goods, wares, or merchandise other than food or beverages may vend these goods, wares, or merchandise from the sidewalk or boardwalk immediately adjacent to their fixed business location during the following any special events within the Old Sacramento business district for which the city has issued a special event permit pursuant to chapter 12.48 that specifically allows sidewalk or boardwalk vending: Jazz Jubilee, Children's Festival, Railroad Festival, Thursday Night Afterglow, and any other Old Sacramento special event for which the director of downtown department determines that sidewalk vending is appropriate. All tables and vending carts used for ~~this purposesidewalk or boardwalk vending pursuant to this section~~ shall be approved in advance as part of the special event permit, by the director of the downtown departmenthistoric district manager, or the director's designee, and shall be positioned so as to leave a minimum of six feet clear on every sidewalk or boardwalk for pedestrians.

SECTION 4.

Section 5.88.070 of the Sacramento City Code is amended to read as follows:

5.88.070 ~~Food and beverage V~~endors with fixed ~~business-restaurant~~ locations permitted to vend from sidewalks or boardwalks year-round.

A. ~~Notwithstanding S~~ection 5.88.040 ~~of this chapter notwithstanding~~, a vendor who has a ~~fixed business-restaurant~~ location within ~~the~~ Old Sacramento ~~business district from which the vendor regularly sells food or beverages~~ may apply for a ~~sidewalk café revocable encroachment~~ permit ~~pursuant to chapter 3.76. 7~~ ~~revocable at will by the director, to vend food or beverages from the sidewalk or boardwalk immediately adjacent to the fixed business location at any time. No alcoholic beverages shall be sold or consumed on the sidewalk or boardwalk. All tables, chairs, and vending carts used for this purpose shall be approved in advance by the director of the downtown department, or the director's designee, and shall be positioned so as to leave a minimum of six feet clear on every sidewalk or boardwalk for pedestrians.~~

B. ~~—The provisions of cChapter 3.726 relating to outdoor sidewalk cafés notwithstanding, an application for a revocable permit under this section shall be submitted to the Old Sacramento management officehistoric district manager, and shall be accompanied by a nonrefundable application fee set by resolution of the city council. At the director's manager's discretion, the permit may be renewed annually upon payment of a renewal fee set by resolution of the city council.~~

C. ~~—Prior to selling food or beverages from the sidewalk or boardwalk, each vendor shall:~~

1. ~~—Through Old Sacramento managementthe historic district manager, obtain written approvals from the fire department and the police department for the furnishings to be used and their placement on the sidewalk or boardwalk.~~

2. ~~—Provide and thereafter maintain comprehensive general liability insurance in an amount not less than one million dollars (\$1,000,000.00), naming the cCity of Sacramento, and its officers, employees, agents and volunteers as additional insureds. The form and substance of the insurance required shall be approved by the city risk manager.~~

~~D~~B. The ~~planning~~ director may establish reasonable rules and regulations concerning ~~the sale of food and beverages from the~~ sidewalk or boardwalk vending in the Old Sacramento business district.

SECTION 5.

Section 9.04.055 of the Sacramento City Code is amended to read as follows:

9.04.055 Possession of open containers of alcoholic beverages in public places.

A. Purpose. Public property and public places within the city should be readily accessible and available to residents and the public at large. The consumption of alcoholic beverages in these areas can constitute a public health and safety hazard that adversely impacts neighborhoods, commercial areas, and the general welfare of the city. It is the city's intent to promote the use and enjoyment of public property and public places while balancing special events where alcoholic beverages may be permitted with appropriate conditions and regulations in place.

B. Definitions. As used in this section:

"Alcoholic beverage" means any alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and that contains one-half of one percent or more of alcohol by volume and that is fit for beverage purposes either alone or when diluted, mixed or combined with other substances, as set forth in California Business and Professions Code sSection 23004, as may be hereafter amended.

"ABC" means the California Department of Alcoholic Beverage Control Board of the State of California.

"Open container" means any bottle, can, jug, box or other receptacle that is open or has been opened and contains any alcoholic beverage.

"City facilities" means structures, buildings or parks owned or controlled by the city of Sacramento.

"Public property" means any property owned or controlled by the city of Sacramento, including, but not limited to, a street, sidewalk, bike path, alley, parking lot or public park.

C. Possession of Open Containers on Public Property Prohibited. No person shall~~It is unlawful for any person to~~ possess an open container on public property except as provided herein. This section is enacted pursuant to sSection 25620 of the California Business and Professions Code.

D. Exceptions.

1. This section ~~does~~shall not prohibit the possession of an open container, at sidewalk or boardwalk tables adjacent to the premises, of alcoholic beverages purchased on the premises by the customer of a bona fide eating place, as the term is defined in California Business and Professions Code sSection 23038, if the bona fide eating place has obtained a revocable encroachment permit from the city pursuant to chapter 3.76 authorizing the placement of sidewalk or boardwalk tables and a license from the ABC that permits the sidewalk or boardwalk consumption.

2. This section ~~does~~ shall not apply:

a. ~~w~~When the possession of an open container of alcoholic beverages is within a structure or designated area located in a park or other public space or area for which an alcohol license has been issued by the ABC.

b. ~~3-~~ ~~This section shall not apply t~~To city facilities during the course of approved city events where the consumption of alcoholic beverages has been specifically permitted.

c. ~~4-~~ ~~This section shall not apply o~~On public property when the city has issued a permit for temporary use and occupancy of public property and the permit provides that alcoholic beverages will be sold or consumed as a part of the function for which the permit is issued.

E. Penalty. Unless another penalty is specified in state law, any person violating this section ~~is~~ shall be guilty of an infraction.

F. Preemption by State Law. This section shall not be construed or interpreted as applicable to any act or acts regulated by state law, but shall be limited to permitted subjects of local regulation not preempted by state law.

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B. Applications for a sidewalk café revocable encroachment permit shall be made to the city manager or designee. A completed sidewalk café revocable encroachment permit application must be accompanied by two sets of plans drawn to scale, consisting of site (plot) plan and elevation drawings of proposed outdoor dining facilities. The site plan must show the location of tables, chairs, accessory service facilities, perimeter barrier element, and any fixed elements on the sidewalk, boardwalk, alley, or mall within a 25-foot radius around the sidewalk café area. Fixed elements include, but are not limited to, light and sign poles, trees and landscape strips, traffic signal poles, parking meters, raised planter curbs, tree-wells, flower pots, and waste containers. Plans must include the dimension of the clear zone, as defined in subsection E of this section, from outer perimeter of the sidewalk café fixture to nearest sidewalk fixtures. Elevation plans must show front and side view of sidewalk dining facilities, including all proposed above-grade improvements such as planter boxes, awnings, tables, and chairs.

C. A sidewalk café may be established only in conjunction with an adjacent restaurant use.

D. Sidewalk cafés shall not obstruct pedestrian traffic, accessibility to vehicles parked adjacent to the curb, or create public health or safety hazards.

E. A minimum four-foot clear zone outside the CBD special planning district and a minimum six-foot clear zone inside the CBD special planning district and inside the Old Sacramento business district are required between the outside edge of any sidewalk café fixture and any fixed element within the sidewalk, boardwalk, alley, or pedestrian mall right-of-way. Fixed elements include, but are not limited to, light and sign poles, trees and landscape strips, traffic signal poles, parking meters, raised planter curbs, tree-wells, flower pots, and waste containers. "Clear zone" means a pedestrian area that is maintained free of all obstructions.

F. The sidewalk café revocable encroachment permit holder is responsible for compliance with all federal and state laws relating to disabled access in the operation of a sidewalk café and in maintaining the clear zone required by subsection E.

G. No additional parking shall be required for sidewalk cafés permitted under this section.

H. Sidewalk cafés shall be used only as seating areas. Storage, kitchen, or restroom uses are not allowed. Tables and chairs must be movable unless otherwise approved by the city manager or designee.

I. Placement of tables and chairs shall be limited to the public right-of-way frontage adjacent to the associated restaurant use as determined by the city manager or designee. All tables and chairs for sidewalk cafés in the Old Sacramento business district must be approved in advance by the planning director or designee.

J. Service and consumption of alcoholic beverages in a sidewalk café shall comply with chapter 9.04.

K. A decorative element separating the sidewalk café seating area from adjacent pedestrian traffic must be provided. The design and materials of this element must complement and be compatible to the architectural design of the restaurant building façade or of a design that adds visual interest to the streetscape. Decorative elements within the Old Sacramento business district must be approved in advance by the planning director or designee.

L. Sidewalk cafés may be uncovered, partially covered, or fully covered by means of umbrellas, awnings or canopies. Awning or canopy material covering a sidewalk café shall be temporary or retractable and may extend into the public right-of-way from the face of the building up to the maximum clear zone dimension of six feet. Width and height of awnings and canopies shall meet applicable building code requirements. Awnings, canopies and umbrellas must be made of fire-treated or nonflammable materials.

M. Decorative or accent lighting may be incorporated into the sidewalk café awning or canopy and shall meet all city code requirements.

N. Upon approval by the city manager or designee, the applicant shall obtain all required building and electrical permits prior to construction.

O. The permit issued under this section approving the sidewalk café and designating the allowed number of tables and chairs shall be displayed in a prominent location easily accessible to the public.

SECTION 2.

Section 5.88.040 of the Sacramento City Code is amended to read as follows:

5.88.040 Prohibited.

Except as otherwise provided in this article, no person shall sell or attempt to sell or distribute any goods, wares, or merchandise, food or beverages by means of vending or distributing such goods, wares, merchandise, food or beverages upon any street, boardwalk, or sidewalk in the Old Sacramento business district.

SECTION 3.

Section 5.88.060 of the Sacramento City Code is amended to read as follows:

5.88.060 Vendors of merchandise with fixed business locations permitted to vend from sidewalk or boardwalk during specified special events.

Notwithstanding section 5.88.040, a vendor who has a fixed business location within the Old Sacramento business district from which the vendor regularly sell goods, wares, or merchandise other than food or beverages may vend these goods, wares, or merchandise from the sidewalk or boardwalk immediately adjacent to their fixed business location during any special event within the Old Sacramento business district for which the city has issued a special event permit pursuant to chapter 12.48 that specifically allows sidewalk or boardwalk vending. All tables and vending carts used for sidewalk or boardwalk vending pursuant to this section shall be approved in advance as part of the special event permit, and shall be positioned so as to leave a minimum of six feet clear on every sidewalk or boardwalk for pedestrians.

SECTION 4.

Section 5.88.070 of the Sacramento City Code is amended to read as follows:

5.88.070 Vendors with fixed restaurant locations permitted to vend from sidewalks or boardwalks year-round.

A. Notwithstanding section 5.88.040, a vendor who has a fixed restaurant location within the Old Sacramento business district may apply for a sidewalk café revocable encroachment permit pursuant to chapter 3.76.

B. The planning director may establish reasonable rules and regulations concerning sidewalk or boardwalk vending in the Old Sacramento business district.

SECTION 5.

Section 9.04.055 of the Sacramento City Code is amended to read as follows:

9.04.055 Possession of open containers of alcoholic beverages in public places.

A. Purpose. Public property and public places within the city should be readily accessible and available to residents and the public at large. The consumption of alcoholic beverages in these areas can constitute a public health and safety hazard that adversely impacts neighborhoods, commercial areas, and the general welfare of the city. It is the city's intent to promote the use and enjoyment of public property and public places while balancing special events where alcoholic beverages may be permitted with appropriate conditions and regulations in place.

B. Definitions. As used in this section:

"Alcoholic beverage" means any alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and that contains one-half of one percent or more of alcohol by volume and that is fit for beverage purposes either alone or when diluted, mixed or combined with other substances, as set forth in California Business and Professions Code section 23004

"ABC" means the California Department of Alcoholic Beverage Control.

"Open container" means any bottle, can, jug, box or other receptacle that is open or has been opened and contains any alcoholic beverage.

"City facilities" means structures, buildings or parks owned or controlled by the city of Sacramento.

"Public property" means any property owned or controlled by the city of Sacramento, including, but not limited to, a street, sidewalk, bike path, alley, parking lot or public park.

C. Possession of Open Containers on Public Property Prohibited. No person shall possess an open container on public property except as provided herein. This section is enacted pursuant to section 25620 of the California Business and Professions Code.

D. Exceptions.

1. This section does not prohibit the possession of an open container, at sidewalk or boardwalk tables adjacent to the premises, of alcoholic beverages purchased on the premises by the customer of a bona fide eating place, as the term is defined in California Business and Professions Code section 23038, if the bona fide eating place has obtained a revocable encroachment permit from the city pursuant to chapter 3.76 authorizing the placement of sidewalk or boardwalk tables and a license from the ABC that permits the sidewalk or boardwalk consumption.

2. This section does not apply:

a. When the possession of an open container of alcoholic beverages is within a structure or designated area located in a park or other public space or area for which an alcohol license has been issued by the ABC.

b. To city facilities during the course of approved city events where the consumption of alcoholic beverages has been specifically permitted.

c. On public property when the city has issued a permit for temporary use and occupancy of public property and the permit provides that alcoholic beverages will be sold or consumed as a part of the function for which the permit is issued.

E. Penalty. Unless another penalty is specified in state law, any person violating this section is guilty of an infraction.

F. Preemption by State Law. This section shall not be construed or interpreted as applicable to any act or acts regulated by state law, but shall be limited to permitted subjects of local regulation not preempted by state law.